

REMARKS

Applicants respectfully traverse and request reconsideration. Applicants further reserve the right to file a continuation consistent with the previously submitted claim scope. Accordingly, the above amendments are made to expedite prosecution.

Claims 6, 11, 13, 15, 18–19, 21–22, 24, 26 and 31 are amended to more clearly articulate the claimed subject matter. New claims 32–35 are added. Similarly, Figures 5 and 6 have been amended to correct typographical errors. Applicants respectfully note that none of the aforementioned amendments add new subject matter contrary to 35 U.S.C. § 132.

Claims 6–13, 15–26, and 28–31 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Publication No. 2001/0001160A1 to Shoff et al. (“Shoff”) in view of U.S. Patent 6,025,837 to Matthews, III et al. (“Matthews”). Applicants respectfully note that the Shoff and Matthews reference are similar in nature by virtue of the fact that they share common figures, common inventors and common assignees. Applicants further note that several passages within both Shoff and Matthews are identical or similarly worded. Accordingly, Applicants chose to discuss both the both references simultaneously.

Applicants respectfully note that the Shoff and Matthews references teach and describe a system that “includes a centralized headend 22 which is configured to provide continuous video content programs to multiple subscribers. Programs provided by headend 22 might include traditional broadcast TV shows, on-demand movies and games, and other services such as those commonly provided in the past by on-line computer services. A single headend might service 250,000 or more subscribers.” (Matthews, column 5, lines 40–50; Shoff, ¶ 28). “The programs are transmitted as a continuous data stream, which is non-interactive in itself.” (Shoff, ¶ 28). A subscriber interacts with a set top box 26 coupled to a television 28 and receives digital video

signals from the remote headend 22; the set top box 26 controls which programs are displayed on the TV 28. (Matthews, column 5, lines 50–55).

“The headend maintains a database of programs 40, such as feature length movies, past TV shows, or games that can be requested by viewers and played to them individually in on-demand mode.” (Matthews, column 6, lines 28–41; Shoff, ¶ 33). As illustrated in Fig. 1 of both references, the remote database of program 40 is part of remote continuous media server 42 under the sole control of a third-party operator. As taught, the continuous media server 42 distributes to the subscriber the digital video data streams kept on the digital program database 40. (Matthews, column 6, lines 45–50). The user has no control over the availability of programs stored in remote program database 40 and is merely presented with the option of selecting among programs selected by the third-party operator.

Shoff and Matthews further teach a remote enhanced content server 52 containing a remote supplemental content database 54 also under the control of a third party operator. (Fig. 1). As taught, the “enhanced content server 42 serves supplemental interactive content to the viewer computing units to enhance or supplement the continuous video streams served by the continuous media server 42. The supplemental content is stored digitally in database 42 and can be text, graphics, video, pictures, sound, or other multimedia types.” (Matthews, column 7, lines 11–21, Shoff ¶ 35). Thus, both references teach that the material found at the remote program database 40 and the remote supplemental content database 54 is controlled and made available solely by a third-party operator of the centralized headend 22.

Independent claims 6, 22, 24 and 26 have been amended to more clearly articulate one aspect of Applicants’ claimed subject matter. In contrast to the Shoff and Matthews references, Applicants presently claim, among other things, “at least one recorded material database containing user-initiated recorded material that includes at least one of: recorded video streams,

still images, recorded audio stream and recorded close captioning information.” (Claim 6; emphasis added). For at least the reason that the material in the program database 40 and the supplemental content database 54 corresponds to material under the control of and made available by a remote third party operator and therefore does not correspond to user-initiated recorded material, Applicants respectfully submit that the cited combination of references therefore fails to establish prima facie obviousness, and that claims 6, 22, 24, and 26 are therefore in proper condition for allowance.

Independent claim 11 has been amended and new independent claims 32 and 34 have been added to more clearly articulate another aspect of Applicants’ subject matter. For instance, with respect to claim 11, Applicants presently claim, among other things, a plurality of local digital material databases of digital recorded material to more clearly indicate that the plurality of digital material databases are specifically located at the client or user and are not part of or located at a remote, centralized headend structure as described with respect to the cited prior art. For at least the reason that the databases in Scoff and Matthews are not located at the client or user but rather at a centralized, third party operated location, Applicants respectfully submit amended claims 11, 32 and 34 for immediate allowance.

Independent claims 16 and 19 have been amended to more clearly articulate yet another aspect of the claimed subject matter. As listed, the recorded material includes at least time shifted data of predetermined live stream data. Applicants respectfully note that the present Office Action rejected similar language previously presented in claims 7 and 12. Accordingly, the following remarks address at least the allowability of claims 7, 12, 16 and 19.

Applicants respectfully disagree that it would have been well known in the art to time shift supplemental content by employing VCR type functions for at least the reason that there does not appear to be any benefits to time shifting supplemental content in the context of either

the cited prior art or the presently claimed subject matter. The cited references teach that, in at least one embodiment, supplemental content is constructed as a hypertext file rendered by a browser via a hyperlink (Shoff, ¶ 35). Accordingly, Applicants note that time shifting data stored in a hypertext file would, at best, render an incongruent, if not inoperable, result. This is at least supported by the nature of the supplemental content and the manner in which hyperlinks are activated to deliver the supplemental content to the user. Accordingly, Applicants respectfully request the production of authority for statements regarding the alleged well known application of VCR functions on supplemental content.

Moreover, Applicants respectfully request the Examiner to produce authority for the statement that such a teaching or practice would render obvious the limitation wherein the recorded material is time shifted data of predetermined live stream data. Further, Applicants note that the recorded material as required by claim 6 is user-initiated recorded material and that the plurality of digital material databases in claim 11 are local to the client. Based on the aforementioned remarks, Applicants respectfully assert that claims 7, 12, 16 and 19 are further in condition for allowance over the cited prior art.

Applicants further note that the Examiner appears to equate the continuous media server 42 and its affiliated video programs database 40 to the claimed at least one live stream database as found in claims 6, 22, 24, and 26. By doing so, the Examiner appears to ignore claim language requiring the at least one live stream database to contain **information regarding** at least one of: a current live stream and a future live stream. Applicants respectfully submit that the video programs database 40 does not contain at least **information regarding** at least one of a current or future live stream. Rather, the video programs database 40 appears to contain video data streams **per se** as indicated in column 6, lines 33–45 of the Matthews reference and

paragraph 33 of the Shoff reference. Accordingly, Applicants submit that claims 6, 22, 24, and 26 are further distinguishable over the cited prior art.

With respect to claims 15, 18, 21, 22, 24 and 31, Applicants respectfully reassert the relevant remarks made above and further note that each of the claims depends from or is part of an allowable base claim. Moreover, Applicants respectfully draw the Examiner's attention to, among other places, page 8 of the present Office Action. Therein, the Examiner misconstrues claim language directed at the phrase "at least one of" in the rejection of claim 15. The Examiner states that the phrase "at least one of" is interpreted to mean that only one of the limitations needs to be met. Similar language is used to reject claims 18, 21, 22, 24 and 31. However, Applicants respectfully note that the structure of the aforementioned claims requires that: (1) the information regarding at least one of: a current live stream and a future live stream correspondingly includes at least one of: identification of the current live stream and identification of the future live stream; and (2) that the information related to recorded material includes identification of the recorded material. As presented, both the first part and second part of the claimed subject matter must be addressed by the Examiner.

The Action rejects claims 15, 18, 21, 22, 24 and 31 by stating that the "hyperlinks of the supplemental content is interpreted to be information related to recorded material that corresponds to a current live stream and/or future live stream of a program to be transmitted over a network channel." (*See e.g.*, Page 8). In view of the remarks presented above regarding the proper construction of the claims, Applicants respectfully submit that neither item 1 nor item 2 has been addressed by the Examiner. For this reason alone, the claims are deemed allowable over the prior art.

Additionally, Applicants respectfully assert that the Action is inconsistent with respect to the rejection of claims 6 and the rejection of claims 15, 18, 21, 22, 24, and 31. In claim 6, the

Examiner equates the supplemental content found in the supplemental content database 54 with the user-initiated recorded material found in the recorded material database. However, with respect to the aforementioned claims, the Action contradicts itself by equating the supplemental content (and its hyperlinks) with the current live stream and/or future live stream of the claimed live stream database. For these reasons, Applicants respectfully submit the claims for immediate allowance.

Claims 8–10, 13, 17, 20, 23, 25 and 28–30 depend from allowable independent claims and further contain novel and non-obvious subject matter. Accordingly, the aforementioned claims are allowable for at least the reasons articulated above.

New claims 31–34 are presented in this response and are believed to be allowable for the reasons articulated above with respect to claims 6–30.

Accordingly, Applicants respectfully submit that the claims are now in condition for allowance and that a timely Notice of Allowance be issued in this case. The Examiner is invited to contact the below-listed attorney if the Examiner believes that a telephone conference will advance the prosecution of this application.

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